

115TH CONGRESS  
2D SESSION

# S. 2932

To strengthen protections relating to the online collection, use, and disclosure of personal information of children and minors, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 23, 2018

Mr. MARKEY (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To strengthen protections relating to the online collection, use, and disclosure of personal information of children and minors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Do Not Track Kids Act of 2018”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Online collection, use, and disclosure of personal information of children and minors.

- Sec. 4. Fair Information Practices Principles.
- Sec. 5. Digital Marketing Bill of Rights for Minors.
- Sec. 6. Targeted marketing to children or minors.
- Sec. 7. Removal of content.
- Sec. 8. Privacy dashboard for connected devices for children and minors.
- Sec. 9. Prohibition on sale of connected devices for children and minors that fail to meet appropriate cybersecurity and data security standards.
- Sec. 10. Rule for treatment of users of websites, services, and applications directed to children or minors.
- Sec. 11. Enforcement and applicability.
- Sec. 12. Effective dates.

1 **SEC. 2. DEFINITIONS.**

2 (a) IN GENERAL.—In this Act:

3 (1) COMMISSION.—The term “Commission”  
4 means the Federal Trade Commission.

5 (2) STANDARDS.—The term “standards” means  
6 benchmarks, guidelines, best practices, methodolo-  
7 gies, procedures, and processes.

8 (b) OTHER DEFINITIONS.—The definitions set forth  
9 in section 1302 of the Children’s Online Privacy Protec-  
10 tion Act of 1998 (15 U.S.C. 6501), as amended by section  
11 3(a) of this Act, shall apply in this Act, except to the ex-  
12 tent the Commission provides otherwise by regulations  
13 issued under section 553 of title 5, United States Code.

14 **SEC. 3. ONLINE COLLECTION, USE, AND DISCLOSURE OF**  
15 **PERSONAL INFORMATION OF CHILDREN AND**  
16 **MINORS.**

17 (a) DEFINITIONS.—Section 1302 of the Children’s  
18 Online Privacy Protection Act of 1998 (15 U.S.C. 6501)  
19 is amended—

1           (1) by amending paragraph (2) to read as fol-  
2       lows:

3           “(2) OPERATOR.—The term ‘operator’—

4               “(A) means any person—

5                   “(i) who, for commercial purposes, in  
6           interstate or foreign commerce—

7                       “(I) operates or provides a  
8                       website on the Internet, an online  
9                       service, an online application, or a  
10                      mobile application; or

11                      “(II) manufactures a connected  
12                      device; and

13                      “(ii) who—

14                           “(I) collects or maintains, either  
15                           directly or through a service provider,  
16                           personal information from or about  
17                           the users of that website, service, ap-  
18                           plication, or connected device;

19                           “(II) allows another person to  
20                           collect personal information directly  
21                           from users of that website, service,  
22                           application, or connected device (in  
23                           which case, the operator is deemed to  
24                           have collected the information); or

1 “(III) allows users of that  
2 website, service, application, or con-  
3 nected device to publicly disclose per-  
4 sonal information (in which case, the  
5 operator is deemed to have collected  
6 the information); and

7 “(B) does not include any nonprofit entity  
8 that would otherwise be exempt from coverage  
9 under section 5 of the Federal Trade Commis-  
10 sion Act (15 U.S.C. 45).”;

11 (2) in paragraph (4)—

12 (A) by amending subparagraph (A) to read  
13 as follows:

14 “(A) the release of personal information  
15 collected from a child or minor for any purpose,  
16 except where the personal information is pro-  
17 vided to a person other than an operator who—

18 “(i) provides support for the internal  
19 operations of the website, online service,  
20 online application, or mobile application of  
21 the operator, excluding any activity relat-  
22 ing to targeted marketing directed to chil-  
23 dren, minors, or connected devices; and

1 “(ii) does not disclose or use that per-  
 2 sonal information for any other purpose;  
 3 and”; and

4 (B) in subparagraph (B)—

5 (i) by inserting “or minor” after  
 6 “child” each place the term appears;

7 (ii) by inserting “or minors” after  
 8 “children”; and

9 (iii) by striking “website or online  
 10 service” and inserting “website, online  
 11 service, online application, or mobile appli-  
 12 cation”;

13 (3) in paragraph (8)—

14 (A) by amending subparagraph (G) to read  
 15 as follows:

16 “(G) information concerning a child or  
 17 minor or the parents of that child or minor (in-  
 18 cluding any unique or substantially unique iden-  
 19 tifier, such as a customer number) that an op-  
 20 erator collects online from the child or minor  
 21 and combines with an identifier described in  
 22 subparagraphs (A) through (G).”;

23 (B) by redesignating subparagraphs (F)  
 24 and (G) as subparagraphs (H) and (I), respec-  
 25 tively; and

1 (C) by inserting after subparagraph (E)  
 2 the following:

3 “(F) information (including an Internet  
 4 protocol address) that permits the identification  
 5 of—

6 “(i) an individual;

7 “(ii) a computer of an individual; or

8 “(iii) any other device used by an in-  
 9 dividual to access the Internet or an online  
 10 service, online application, or mobile appli-  
 11 cation;

12 “(G) geolocation information;”;

13 (4) by amending paragraph (9) to read as fol-  
 14 lows:

15 “(9) VERIFIABLE CONSENT.—The term  
 16 ‘verifiable consent’ means any reasonable effort (tak-  
 17 ing into consideration available technology), includ-  
 18 ing a request for authorization for future collection,  
 19 use, and disclosure described in the notice, to ensure  
 20 that, in the case of a child, a parent of the child,  
 21 or, in the case of a minor, the minor—

22 “(A) receives notice of the personal infor-  
 23 mation collection, use, and disclosure practices  
 24 of the operator; and

1 “(B) before the personal information of the  
2 child or minor is collected, authorizes—

3 “(i) the collection, use, and disclosure,  
4 as applicable, of that personal information;  
5 and

6 “(ii) any subsequent use of that per-  
7 sonal information.”;

8 (5) by striking paragraph (10) and redesignig-  
9 nating paragraphs (11) and (12) as paragraphs (10)  
10 and (11), respectively; and

11 (6) by adding at the end the following:

12 “(12) CONNECTED DEVICE.—The term ‘con-  
13 nected device’ means a device that is—

14 “(A) capable of connecting to the Internet,  
15 directly or indirectly, or to another connected  
16 device; and

17 “(B) directed towards a child or minor.

18 “(13) ONLINE; ONLINE APPLICATION; ONLINE  
19 SERVICE; DIRECTED TO A CHILD; DIRECTED TO A  
20 MINOR; MOBILE APPLICATION.—

21 “(A) IN GENERAL.—Subject to subpara-  
22 graphs (C) and (D), the terms ‘online’, ‘online  
23 application’, ‘online service’, ‘directed to a  
24 child’, ‘directed to a minor’, and ‘mobile appli-  
25 cation’ shall have the meanings given those

terms by regulation promulgated by the Commission under subparagraph (B).

“(B) PROMULGATION OF REGULATIONS.—

Not later than 1 year after the date of the enactment of the Do Not Track Kids Act of 2018, the Commission shall promulgate, under section 553 of title 5, United States Code, regulations that define the terms described in subparagraph (A) broadly enough to ensure that the terms are not limited to current technology, consistent with—

“(i) the principles articulated by the Commission regarding the definition of the term ‘Internet’ in the statement of basis and purpose on the final rule under this title promulgated on November 3, 1999 (64 Fed. Reg. 59891); and

“(ii) the principles articulated by the Commission regarding the definition of the term ‘directed to children’ in the statement of basis and purpose on the final rule under this title promulgated on January 17, 2013 (78 Fed. Reg. 3972).

“(C) ONLINE SERVICE.—The definition of the term ‘online service’ in the regulations pro-

mulgated under subparagraph (B) shall include broadband Internet access service (as defined in the Report and Order on Remand, Declaratory Ruling, and Order in the matter of protecting and promoting the open Internet, adopted by the Federal Communications Commission on February 26, 2015 (FCC 15–24)).

“(D) ONLINE APPLICATION; ONLINE SERVICE; MOBILE APPLICATION.—The terms ‘online service’, ‘online application’, and ‘mobile application’ include a service or application offered via a connected device.

“(14) GEOLOCATION INFORMATION.—The term ‘geolocation information’ means information sufficient to identify a street name and name of a city or town.

“(15) MINOR.—The term ‘minor’ means an individual over the age of 12 and under the age of 16.

“(16) TARGETED MARKETING.—The term ‘targeted marketing’ means advertising or any other effort to market a product or service that is directed to a specific individual or device—

“(A) based on the personal information of the individual or a unique identifier of the device; and

1                   “(B) as a result of use by the individual,  
 2                   or access by the device, of—  
 3                   “(i) a website;  
 4                   “(ii) an online service;  
 5                   “(iii) an online application; or  
 6                   “(iv) a mobile application.”.

7           (b) ONLINE COLLECTION, USE, AND DISCLOSURE OF  
 8   PERSONAL INFORMATION OF CHILDREN AND MINORS.—  
 9   Section 1303 of the Children’s Online Privacy Protection  
 10   Act of 1998 (15 U.S.C. 6502) is amended—

11           (1) by striking the heading and inserting the  
 12           following: “**ONLINE COLLECTION, USE, AND DIS-**  
 13           **CLOSURE OF PERSONAL INFORMATION OF**  
 14           **CHILDREN AND MINORS.**”;

15           (2) in subsection (a)—

16                   (A) by amending paragraph (1) to read as  
 17                   follows:

18                   “(1) IN GENERAL.—It is unlawful for an oper-  
 19                   ator of a website, online service, online application,  
 20                   or mobile application directed to a child or minor, or  
 21                   an operator having actual knowledge that personal  
 22                   information being collected is from a child or minor,  
 23                   to collect personal information from a child or minor  
 24                   in a manner that violates the regulations prescribed  
 25                   under subsection (b).”; and

1 (B) in paragraph (2)—

2 (i) by striking “of such a website or  
3 online service”; and

4 (ii) by striking “subsection  
5 (b)(1)(B)(iii) to the parent of a child” and  
6 inserting “subsection (b)(1)(C)(iii) to the  
7 parent of a child or under subsection  
8 (b)(1)(D)(iii) to a minor”; and

9 (3) in subsection (b)—

10 (A) by amending paragraph (1) to read as  
11 follows:

12 “(1) IN GENERAL.—Not later than 1 year after  
13 the date of the enactment of the Do Not Track Kids  
14 Act of 2018, the Commission shall promulgate,  
15 under section 553 of title 5, United States Code,  
16 regulations to require an operator of a website, on-  
17 line service, online application, or mobile application  
18 directed to children or minors, or an operator having  
19 actual knowledge that personal information being  
20 collected is from a child or minor—

21 “(A) to provide clear and conspicuous no-  
22 tice in clear and plain language of—

23 “(i) the types of personal information  
24 the operator collects;

1 “(ii) how the operator uses the infor-  
2 mation;

3 “(iii) whether the operator discloses  
4 the information; and

5 “(iv) the procedures or mechanisms  
6 the operator uses to ensure that personal  
7 information is not collected from children  
8 or minors except in accordance with the  
9 regulations promulgated under this para-  
10 graph;

11 “(B) to obtain verifiable consent for the  
12 collection, use, or disclosure of personal infor-  
13 mation of a child or minor;

14 “(C) to provide to a parent whose child  
15 has provided personal information to the oper-  
16 ator, upon request by and proper identification  
17 of the parent—

18 “(i) a description of the specific types  
19 of personal information collected from the  
20 child by the operator;

21 “(ii) the opportunity at any time to  
22 refuse to permit the further use or mainte-  
23 nance in retrievable form, or future collec-  
24 tion, by the operator of personal informa-  
25 tion collected from the child; and

1           “(iii) a means that is reasonable  
2           under the circumstances for the parent to  
3           obtain any personal information collected  
4           from the child, if such information is avail-  
5           able to the operator at the time the parent  
6           makes the request;

7           “(D) to provide to a minor who has pro-  
8           vided personal information to the operator,  
9           upon request by and proper identification of the  
10          minor—

11           “(i) a description of the specific types  
12           of personal information collected from the  
13           minor by the operator;

14           “(ii) the opportunity at any time to  
15           refuse to permit the further use or mainte-  
16           nance in retrievable form, or future collec-  
17           tion, by the operator of personal informa-  
18           tion collected from the minor; and

19           “(iii) a means that is reasonable  
20           under the circumstances for the minor to  
21           obtain any personal information collected  
22           from the minor, if such information is  
23           available to the operator at the time the  
24           minor makes the request;

“(E) not to condition participation in a game, or use of a website, service, or application, by a child or minor on the provision by the child or minor of more personal information than is reasonably required to participate in the game or use the website, service, or application; and

“(F) to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children and minors.”;

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “verifiable parental consent under paragraph (1)(A)(ii)” and inserting “verifiable consent under paragraph (1)(B)”; and

(ii) in subparagraph (A)—

(I) by inserting “or minor” after “collected from a child”;

(II) by inserting “or minor” after “request from the child”; and

(III) by inserting “or minor or to contact a different child or minor” after “to recontact the child”;

1 (iii) in subparagraph (B)—

2 (I) by striking “parent or child”  
3 and inserting “parent, child, or  
4 minor”; and

5 (II) by striking “parental con-  
6 sent” each place the term appears and  
7 inserting “verifiable consent”;

8 (iv) in subparagraph (C)—

9 (I) in the matter preceding clause  
10 (i), by inserting “or minor” after  
11 “child” each place the term appears;

12 (II) in clause (i)—

13 (aa) by inserting “or minor”  
14 after “child” each place the term  
15 appears; and

16 (bb) by inserting “or minor,  
17 as applicable,” after “parent”  
18 each place the term appears; and

19 (III) in clause (ii)—

20 (aa) by inserting “or minor,  
21 as applicable,” after “parent”;  
22 and

23 (bb) by inserting “or minor”  
24 after “child” each place the term  
25 appears; and

- 1 (v) in subparagraph (D)—
- 2 (I) in the matter preceding clause
- 3 (i), by inserting “or minor” after
- 4 “child” each place the term appears;
- 5 (II) in clause (ii), by inserting
- 6 “or minor” after “child”; and
- 7 (III) in the flush text following
- 8 clause (iii)—
- 9 (aa) by inserting “or minor,
- 10 as applicable,” after “parent”
- 11 each place the term appears; and
- 12 (bb) by inserting “or minor”
- 13 after “child”; and
- 14 (C) by amending paragraph (3) to read as
- 15 follows:
- 16 “(3) CONTINUATION OF SERVICE.—The regula-
- 17 tions shall prohibit an operator from discontinuing
- 18 service provided to a child or minor on the basis of
- 19 refusal by the parent of the child or by the minor,
- 20 under the regulations prescribed under subpara-
- 21 graphs (C)(ii) and (D)(ii) of paragraph (1), respec-
- 22 tively, to permit the further use or maintenance in
- 23 retrievable form, or future collection, by the operator
- 24 of personal information collected from the child or

1 minor, to the extent that the operator is capable of  
2 providing such service without such information.”.

3 (c) SAFE HARBORS.—Section 1304 of the Children’s  
4 Online Privacy Protection Act of 1998 (15 U.S.C. 6503)  
5 is amended—

6 (1) in subsection (b)(1), by inserting “and mi-  
7 nors” after “children”; and

8 (2) by adding at the end the following:

9 “(d) PUBLICATION.—The Commission shall publish  
10 on the internet website of the Commission any report or  
11 documentation required by regulation to be submitted to  
12 the Commission to carry out this section, except to the  
13 extent that the report or documentation contains propri-  
14 etary information, which the Commission may in its dis-  
15 cretion redact.”.

16 (d) ADMINISTRATION AND APPLICABILITY OF ACT.—  
17 Section 1306 of the Children’s Online Privacy Protection  
18 Act of 1998 (15 U.S.C. 6505) is amended—

19 (1) in subsection (b)—

20 (A) in paragraph (1), by striking “, in the  
21 case of” and all that follows and inserting the  
22 following: “by the appropriate Federal banking  
23 agency, with respect to any insured depository  
24 institution (as those terms are defined in sec-  
25 tion 3 of that Act (12 U.S.C. 1813));”; and

1 (B) by striking paragraph (2) and redesignig-  
 2 nating paragraphs (3) through (6) as para-  
 3 graphs (2) through (5), respectively; and  
 4 (2) by adding at the end the following new sub-  
 5 section:

6 “(f) TELECOMMUNICATIONS CARRIERS AND CABLE  
 7 OPERATORS.—

8 “(1) ENFORCEMENT BY COMMISSION.—Not-  
 9 withstanding section 5(a)(2) of the Federal Trade  
 10 Commission Act (15 U.S.C. 45(a)(2)), compliance  
 11 with the requirements imposed under this title shall  
 12 be enforced by the Commission with respect to any  
 13 telecommunications carrier (as defined in section 3  
 14 of the Communications Act of 1934 (47 U.S.C.  
 15 153)).

16 “(2) RELATIONSHIP TO OTHER LAW.—To the  
 17 extent that section 222, 338(i), or 631 of the Com-  
 18 munications Act of 1934 (47 U.S.C. 222; 338(i);  
 19 551) is inconsistent with this title, this title con-  
 20 trols.”.

21 **SEC. 4. FAIR INFORMATION PRACTICES PRINCIPLES.**

22 The Fair Information Practices Principles described  
 23 in this section are the following:

24 (1) COLLECTION LIMITATION PRINCIPLE.—Ex-  
 25 cept as provided in paragraph (3), personal informa-

tion should be collected from a minor only when collection of the personal information is—

(A) consistent with the context of a particular transaction or service or the relationship of the minor with the operator, including collection necessary to fulfill a transaction or provide a service requested by the minor; or

(B) required or specifically authorized by law.

(2) DATA QUALITY PRINCIPLE.—The personal information of a minor should be accurate, complete, and kept up-to-date to the extent necessary to fulfill the purposes described in subparagraphs (A) through (D) of paragraph (3).

(3) PURPOSE SPECIFICATION PRINCIPLE.—The purposes for which personal information is collected should be specified to the minor not later than at the time of the collection of the information. The subsequent use or disclosure of the information should be limited to—

(A) fulfillment of the transaction or service requested by the minor;

(B) support for the internal operations of the website, service, or application, as described in section 312.2 of title 16, Code of Federal

1 Regulations, excluding any activity relating to  
 2 targeted marketing directed to children, minors,  
 3 or connected devices;

4 (C) compliance with legal process or other  
 5 purposes expressly authorized under specific  
 6 legal authority; or

7 (D) other purposes—

8 (i) that are specified in a notice to the  
 9 minor; and

10 (ii) to which the minor has consented  
 11 under paragraph (7) before the informa-  
 12 tion is used or disclosed for such other  
 13 purposes.

14 (4) RETENTION LIMITATION PRINCIPLE.—The  
 15 personal information of a minor should not be re-  
 16 tained for longer than is necessary to fulfill a trans-  
 17 action or provide a service requested by the minor  
 18 or such other purposes specified in subparagraphs  
 19 (A) through (D) of paragraph (3). The operator  
 20 should implement a reasonable and appropriate data  
 21 disposal policy based on the nature and sensitivity of  
 22 such personal information.

23 (5) SECURITY SAFEGUARDS PRINCIPLE.—The  
 24 personal information of a minor should be protected  
 25 by reasonable and appropriate security safeguards

1 against risks such as loss or unauthorized access,  
2 destruction, use, modification, or disclosure.

3 (6) OPENNESS PRINCIPLE.—

4 (A) IN GENERAL.—The operator should  
5 maintain a general policy of openness about de-  
6 velopments, practices, and policies with respect  
7 to the personal information of a minor. The op-  
8 erator should provide each minor using the  
9 website, online service, online application, or  
10 mobile application of the operator with a clear  
11 and prominent means—

12 (i) to identify and contact the oper-  
13 ator, by, at a minimum, disclosing, clearly  
14 and prominently, the identity of the oper-  
15 ator and—

16 (I) in the case of an operator  
17 who is an individual, the address of  
18 the principal residence of the operator  
19 and an email address and telephone  
20 number for the operator; or

21 (II) in the case of any other op-  
22 erator, the address of the principal  
23 place of business of the operator and  
24 an email address and telephone num-  
25 ber for the operator;

1           (ii) to determine whether the operator  
2           possesses any personal information of the  
3           minor, the nature of any such information,  
4           and the purposes for which the information  
5           was collected and is being retained;

6           (iii) to obtain any personal informa-  
7           tion of the minor that is in the possession  
8           of the operator from the operator, or from  
9           a person specified by the operator, within  
10          a reasonable time after making a request,  
11          at a charge (if any) that is not excessive,  
12          in a reasonable manner, and in a form that  
13          is readily intelligible to the minor;

14          (iv) to challenge the accuracy of per-  
15          sonal information of the minor that is in  
16          the possession of the operator; and

17          (v) if the minor establishes the inaccu-  
18          racy of personal information in a challenge  
19          under clause (iv), to have such information  
20          erased, corrected, completed, or otherwise  
21          amended.

22          (B) LIMITATION.—Nothing in this para-  
23          graph shall be construed to permit an operator  
24          to erase or otherwise modify personal informa-

1           tion requested by a law enforcement agency  
2           pursuant to legal authority.

3           (7) INDIVIDUAL PARTICIPATION PRINCIPLE.—

4       The operator should—

5           (A) obtain consent from a minor before  
6           using or disclosing the personal information of  
7           the minor for any purpose other than the pur-  
8           poses described in subparagraphs (A) through  
9           (C) of paragraph (3); and

10          (B) obtain affirmative express consent  
11          from a minor before using or disclosing pre-  
12          viously collected personal information of the  
13          minor for purposes that constitute a material  
14          change in practice from the original purposes  
15          specified to the minor under paragraph (3).

16 **SEC. 5. DIGITAL MARKETING BILL OF RIGHTS FOR MINORS.**

17       (a) ACTS PROHIBITED.—It is unlawful for an oper-  
18       ator of a website, online service, online application, or mo-  
19       bile application directed to minors, or an operator having  
20       actual knowledge that personal information being collected  
21       is from a minor, to collect personal information from a  
22       minor unless such operator has adopted and complies with  
23       a Digital Marketing Bill of Rights for Minors that is con-  
24       sistent with the Fair Information Practices Principles de-  
25       scribed in section 4.

1       (b) REGULATIONS.—Not later than 1 year after the  
2 date of enactment of this Act, the Commission shall pro-  
3 mulgate, under section 553 of title 5, United States Code,  
4 regulations to implement this section, including regula-  
5 tions further defining the Fair Information Practices  
6 Principles described in section 4.

7 **SEC. 6. TARGETED MARKETING TO CHILDREN OR MINORS.**

8       (a) ACTS PROHIBITED.—It is unlawful for—

9           (1) an operator of a website, online service, on-  
10 line application, mobile application, or connected de-  
11 vice directed to children, or an operator having ac-  
12 tual knowledge that personal information being col-  
13 lected is from a child or a connected device of a  
14 child, to use, disclose to third parties, or compile  
15 personal information for purposes of targeted mar-  
16 keting; or

17           (2) an operator of a website, online service, on-  
18 line application, mobile application, or connected de-  
19 vice directed to minors, or an operator having actual  
20 knowledge that personal information being collected  
21 is from a minor or a connected device of a minor,  
22 to use, disclose to third parties, or compile personal  
23 information for purposes of targeted marketing with-  
24 out the verifiable consent of the minor.

1       (b) REGULATIONS.—Not later than 1 year after the  
2 date of enactment of this Act, the Commission shall pro-  
3 mulgate, under section 553 of title 5, United States Code,  
4 regulations to implement this section.

5 **SEC. 7. REMOVAL OF CONTENT.**

6       (a) ACTS PROHIBITED.—It is unlawful for an oper-  
7 ator to make publicly available through a website, online  
8 service, online application, or mobile application content  
9 or information that contains or displays personal informa-  
10 tion of children or minors in a manner that violates a reg-  
11 ulation prescribed under subsection (b).

12       (b) REGULATIONS.—

13           (1) IN GENERAL.—Not later than 1 year after  
14 the date of enactment of this Act, the Commission  
15 shall promulgate, under section 553 of title 5,  
16 United States Code, regulations that require an op-  
17 erator—

18                   (A) to the extent technologically feasible,  
19 to implement mechanisms that permit a user of  
20 the website, online service, online application, or  
21 mobile application of the operator to erase or  
22 otherwise eliminate content or information that  
23 is—

1 (i) submitted to the website, online  
2 service, online application, or mobile appli-  
3 cation by that user;

4 (ii) publicly available through the  
5 website, online service, online application,  
6 or mobile application; and

7 (iii) contains or displays personal in-  
8 formation of children or minors; and

9 (B) to take appropriate steps to make  
10 users aware of the mechanisms described in  
11 subparagraph (A) and to provide notice to users  
12 that the mechanisms do not necessarily provide  
13 comprehensive removal of the content or infor-  
14 mation submitted by users.

15 (2) EXCEPTION.—The regulations promulgated  
16 under paragraph (1) may not require an operator or  
17 third party to erase or otherwise eliminate content  
18 or information that—

19 (A) any other provision of Federal or State  
20 law requires the operator or third party to  
21 maintain; or

22 (B) was submitted to the website, online  
23 service, online application, or mobile application  
24 of the operator by any person other than the  
25 user who is attempting to erase or otherwise

1 eliminate the content or information, including  
2 content or information submitted by the user  
3 that was republished or resubmitted by another  
4 person.

5 (3) LIMITATION.—Nothing in this section shall  
6 be construed to limit the authority of a law enforce-  
7 ment agency to obtain any content or information  
8 from an operator as authorized by law or pursuant  
9 to an order of a court of competent jurisdiction.

10 **SEC. 8. PRIVACY DASHBOARD FOR CONNECTED DEVICES**  
11 **FOR CHILDREN AND MINORS.**

12 (a) IN GENERAL.—A manufacturer of a connected  
13 device shall prominently display on the packaging for the  
14 connected device a standardized and easy-to-understand  
15 privacy dashboard, detailing whether, what, and how per-  
16 sonal information of a child or minor is—

- 17 (1) collected from the connected device;  
18 (2) transmitted from the connected device;  
19 (3) retained on the connected device;  
20 (4) retained by the manufacturer or affiliated  
21 person;  
22 (5) used by the manufacturer or affiliated per-  
23 son; and  
24 (6) protected.

1 (b) FEATURES.—A privacy dashboard under sub-  
2 section (a) shall inform a consumer of—

3 (1) the extent to which the connected device  
4 meets the highest cybersecurity and data security  
5 standards, including if and how to obtain security  
6 patches;

7 (2) the extent to which the connected device  
8 gives—

9 (A) a parent meaningful control over the  
10 information of a child of the parent; and

11 (B) a minor meaningful control over the  
12 information of the minor;

13 (3) the extent to which the device minimizes the  
14 collection, retention, and use of information from a  
15 child or minor;

16 (4) the location of privacy policies;

17 (5) the type of personal information the con-  
18 nected device may collect; and

19 (6) any other information as the Commission  
20 considers appropriate.

21 (c) REGULATIONS.—Not later than 1 year after the  
22 date of enactment of this Act, the Commission shall pro-  
23 mulgate, under section 553 of title 5, United States Code,  
24 regulations to implement this section.

1 **SEC. 9. PROHIBITION ON SALE OF CONNECTED DEVICES**  
2 **FOR CHILDREN AND MINORS THAT FAIL TO**  
3 **MEET APPROPRIATE CYBERSECURITY AND**  
4 **DATA SECURITY STANDARDS.**

5 (a) PROHIBITION.—Beginning 1 year after the date  
6 of enactment of this Act, or such earlier date as the Com-  
7 mission considers appropriate, no person may sell a con-  
8 nected device unless the connected device meets appro-  
9 priate cybersecurity and data security standards estab-  
10 lished by the Commission.

11 (b) CYBERSECURITY AND DATA SECURITY STAND-  
12 ARDS.—

13 (1) IN GENERAL.—The Commission shall pro-  
14 mulgate, under section 553 of title 5, United States  
15 Code, cybersecurity and data security standards de-  
16 scribed in subsection (a).

17 (2) CONSIDERATIONS.—In promulgating cyber-  
18 security and data security standards under para-  
19 graph (1), the Commission shall—

20 (A) create cybersecurity and data security  
21 standards for different subsets of connected de-  
22 vices based on the varying degrees of—

23 (i) cybersecurity and data security  
24 risk associated with each subset of con-  
25 nected device;

1 (ii) sensitivity of information collected,  
 2 stored, or transmitted by each subset of  
 3 connected device; and

4 (iii) functionality of each subset of  
 5 connected device;

6 (B) consider incorporating, to the extent  
 7 practicable, existing cybersecurity and data se-  
 8 curity standards; and

9 (C) ensure that the cybersecurity and data  
 10 security standards—

11 (i) are consistent with Fair Informa-  
 12 tion Practice Principles described in sec-  
 13 tion 4; and

14 (ii) promote data minimization.

15 **SEC. 10. RULE FOR TREATMENT OF USERS OF WEBSITES,**  
 16 **SERVICES, AND APPLICATIONS DIRECTED TO**  
 17 **CHILDREN OR MINORS.**

18 For the purposes of this Act, an operator of a  
 19 website, online service, online application, or mobile appli-  
 20 cation that is directed to children or minors shall treat  
 21 each user of that website, online service, online applica-  
 22 tion, or mobile application as a child or minor, respective  
 23 to whether the website, online service, online application,  
 24 or mobile application is directed to children or minors, ex-

1 cept as permitted by the Commission pursuant to a regula-  
2 tion promulgated under this Act.

3 **SEC. 11. ENFORCEMENT AND APPLICABILITY.**

4 (a) ENFORCEMENT BY THE COMMISSION.—

5 (1) IN GENERAL.—Except as otherwise pro-  
6 vided, this Act and the regulations prescribed under  
7 this Act shall be enforced by the Commission under  
8 the Federal Trade Commission Act (15 U.S.C. 41 et  
9 seq.).

10 (2) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
11 TICES.—Subject to subsection (b), a violation of this  
12 Act or a regulation prescribed under this Act shall  
13 be treated as a violation of a rule defining an unfair  
14 or deceptive act or practice prescribed under section  
15 18(a)(1)(B) of the Federal Trade Commission Act  
16 (15 U.S.C. 57a(a)(1)(B)).

17 (3) ACTIONS BY THE COMMISSION.—

18 (A) IN GENERAL.—Subject to subsection  
19 (b), and except as provided in subsection (d)(1),  
20 the Commission shall prevent any person from  
21 violating this Act or a regulation prescribed  
22 under this Act in the same manner, by the  
23 same means, and with the same jurisdiction,  
24 powers, and duties as though all applicable  
25 terms and provisions of the Federal Trade

1 Commission Act (15 U.S.C. 41 et seq.) were in-  
2 corporated into and made a part of this Act,  
3 and any person who violates this Act or such  
4 regulation shall be subject to the penalties and  
5 entitled to the privileges and immunities pro-  
6 vided in the Federal Trade Commission Act.

7 (B) VIOLATIONS.—In an action brought by  
8 the Commission to enforce this Act and the reg-  
9 ulations prescribed under this Act, each con-  
10 nected device that fails to meet a standard pro-  
11 mulgated under this Act shall be treated as a  
12 separate violation.

13 (b) ENFORCEMENT BY CERTAIN OTHER AGEN-  
14 CIES.—Notwithstanding subsection (a), compliance with  
15 the requirements imposed under this Act shall be enforced  
16 as follows:

17 (1) Under section 8 of the Federal Deposit In-  
18 surance Act (12 U.S.C. 1818) by the appropriate  
19 Federal banking agency, with respect to an insured  
20 depository institution (as such terms are defined in  
21 section 3 of such Act (12 U.S.C. 1813)).

22 (2) Under the Federal Credit Union Act (12  
23 U.S.C. 1751 et seq.) by the National Credit Union  
24 Administration Board, with respect to any Federal  
25 credit union.

1           (3) Under part A of subtitle VII of title 49,  
 2           United States Code, by the Secretary of Transpor-  
 3           tation, with respect to any air carrier or foreign air  
 4           carrier subject to such part.

5           (4) Under the Packers and Stockyards Act,  
 6           1921 (7 U.S.C. 181 et seq.) (except as provided in  
 7           section 406 of that Act (7 U.S.C. 226; 227)) by the  
 8           Secretary of Agriculture, with respect to any activi-  
 9           ties subject to that Act.

10          (5) Under the Farm Credit Act of 1971 (12  
 11          U.S.C. 2001 et seq.) by the Farm Credit Adminis-  
 12          tration, with respect to any Federal land bank, Fed-  
 13          eral land bank association, Federal intermediate  
 14          credit bank, or production credit association.

15          (c) ENFORCEMENT BY STATE ATTORNEYS GEN-  
 16          ERAL.—

17               (1) IN GENERAL.—

18                   (A) CIVIL ACTIONS.—In any case in which  
 19                   the attorney general of a State has reason to  
 20                   believe that an interest of the residents of that  
 21                   State has been or is threatened or adversely af-  
 22                   fected by the engagement of any person in a  
 23                   practice that violates this Act or a regulation  
 24                   prescribed under this Act, the State, as *parens*  
 25

the residents of the State in a district court of  
the United States of appropriate jurisdiction  
to—

(i) enjoin that practice;

(ii) enforce compliance with this Act  
or such regulation;

(iii) obtain damages, restitution, or  
other compensation on behalf of residents  
of the State; or

(iv) obtain such other relief as the  
court may consider to be appropriate.

(B) NOTICE.—

(i) IN GENERAL.—Before filing an ac-  
tion under subparagraph (A), the attorney  
general of the State involved shall provide  
to the Commission—

(I) written notice of that action;

and

(II) a copy of the complaint for  
that action.

(ii) EXEMPTION.—

(I) IN GENERAL.—Clause (i)  
shall not apply with respect to the fil-  
ing of an action by an attorney gen-  
eral of a State under this paragraph

1 if the attorney general of the State  
 2 determines that it is not feasible to  
 3 provide the notice described in that  
 4 clause before the filing of the action.

5 (II) NOTIFICATION.—In an ac-  
 6 tion described in subclause (I), the at-  
 7 torney general of a State shall provide  
 8 notice and a copy of the complaint to  
 9 the Commission at the same time as  
 10 the attorney general files the action.

11 (2) INTERVENTION.—

12 (A) IN GENERAL.—On receiving notice  
 13 under paragraph (1)(B), the Commission shall  
 14 have the right to intervene in the action that is  
 15 the subject of the notice.

16 (B) EFFECT OF INTERVENTION.—If the  
 17 Commission intervenes in an action under para-  
 18 graph (1), it shall have the right—

19 (i) to be heard with respect to any  
 20 matter that arises in that action; and

21 (ii) to file a petition for appeal.

22 (3) CONSTRUCTION.—For purposes of bringing  
 23 any civil action under paragraph (1), nothing in this  
 24 Act shall be construed to prevent an attorney gen-  
 25 eral of a State from exercising the powers conferred

1 on the attorney general by the laws of that State  
2 to—

3 (A) conduct investigations;

4 (B) administer oaths or affirmations; or

5 (C) compel the attendance of witnesses or  
6 the production of documentary and other evi-  
7 dence.

8 (4) ACTIONS BY THE COMMISSION.—In any  
9 case in which an action is instituted by or on behalf  
10 of the Commission for violation of this Act or a reg-  
11 ulation prescribed under this Act, no State may,  
12 during the pendency of that action, institute an ac-  
13 tion under paragraph (1) against any defendant  
14 named in the complaint in the action instituted by  
15 or on behalf of the Commission for that violation.

16 (5) VENUE; SERVICE OF PROCESS.—

17 (A) VENUE.—Any action brought under  
18 paragraph (1) may be brought in the district  
19 court of the United States that meets applicable  
20 requirements relating to venue under section  
21 1391 of title 28, United States Code.

22 (B) SERVICE OF PROCESS.—In an action  
23 brought under paragraph (1), process may be  
24 served in any district in which the defendant—

25 (i) is an inhabitant; or

1 (ii) may be found.

2 (d) TELECOMMUNICATIONS CARRIERS AND CABLE  
3 OPERATORS.—

4 (1) ENFORCEMENT BY COMMISSION.—Notwith-  
5 standing section 5(a)(2) of the Federal Trade Com-  
6 mission Act (15 U.S.C. 45(a)(2)), compliance with  
7 the requirements imposed under this Act shall be en-  
8 forced by the Commission with respect to any tele-  
9 communications carrier (as defined in section 3 of  
10 the Communications Act of 1934 (47 U.S.C. 153)).

11 (2) RELATIONSHIP TO OTHER LAWS.—To the  
12 extent that section 222, 338(i), or 631 of the Com-  
13 munications Act of 1934 (47 U.S.C. 222; 338(i);  
14 551) is inconsistent with this Act, this Act controls.

15 (e) SAFE HARBORS.—

16 (1) DEFINITION.—In this subsection—

17 (A) the term “applicable section” means  
18 section 5, 6, 7, 8, or 9 of this Act;

19 (B) the term “covered operator” means an  
20 operator subject to guidelines approved under  
21 paragraph (2);

22 (C) the term “requesting entity” means an  
23 entity that submits a safe harbor request to the  
24 Commission; and

1 (D) the term “safe harbor request” means  
2 a request to have self-regulatory guidelines de-  
3 scribed in paragraph (2)(A) approved under  
4 that paragraph.

5 (2) GUIDELINES.—

6 (A) IN GENERAL.—An operator may sat-  
7 isfy the requirements of regulations issued  
8 under an applicable section by following a set of  
9 self-regulatory guidelines, issued by representa-  
10 tives of the marketing or online industries, or  
11 by other persons, that, after notice and an op-  
12 portunity for comment, are approved by the  
13 Commission upon making a determination that  
14 the guidelines meet the requirements of the reg-  
15 ulations issued under that applicable section.

16 (B) EXPEDITED RESPONSE TO RE-  
17 QUESTS.—Not later than 180 days after the  
18 date on which a safe harbor request is filed  
19 under subparagraph (A), the Commission shall  
20 act upon the request set forth in writing the  
21 conclusions of the Commission with regard to  
22 the request.

23 (C) APPEALS.—A requesting entity may  
24 appeal the final action of the Commission under  
25 subparagraph (B), or a failure by the Commis-

1 sion to act in the period described in that para-  
2 graph, to a district court of the United States  
3 of appropriate jurisdiction, as provided for in  
4 section 706 of title 5, United States Code.

5 (3) INCENTIVES.—

6 (A) SELF-REGULATORY INCENTIVES.—In  
7 prescribing regulations under an applicable sec-  
8 tion, the Commission shall provide incentives  
9 for self-regulation by covered operators to im-  
10 plement the protections afforded children and  
11 minors, as applicable, under the regulatory re-  
12 quirements described in those sections.

13 (B) DEEMED COMPLIANCE.—The incen-  
14 tives under subparagraph (A) shall include pro-  
15 visions for ensuring that a covered operator will  
16 be deemed to be in compliance with the require-  
17 ments of the regulations under an applicable  
18 section if that person complies with guidelines  
19 approved under paragraph (2).

20 (4) REGULATIONS.—In prescribing regulations  
21 relating to safe harbor guidelines under an applica-  
22 ble section, the Commission shall—

23 (A) establish criteria for the approval of  
24 guidelines that will ensure that a covered oper-  
25 ator provides substantially the same or greater

protections for children and minors, as applicable, as those contained in the regulations issued under the applicable section; and

(B) require that any report or documentation required to be submitted to the Commission by a covered operator or requesting entity will be published on the internet website of the Commission, except to the extent that the report or documentation contains proprietary information, which the Commission may in its discretion redact.

**SEC. 12. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this Act and the amendments made by this Act shall take effect on the date that is 1 year after the date of enactment of this Act.

(b) AUTHORITY TO PROMULGATE REGULATIONS.—The following shall take effect on the date of enactment of this Act:

(1) Section 2(b).

(2) The amendments made by subsections (a)(6) and (b) of section 3.

(3) Sections 5(b), 6(b), 7(b), 8(c), and 9(b).

(c) DIGITAL MARKETING BILL OF RIGHTS FOR MINORS.—Section 5(a) shall take effect on the date that is

1 180 days after the promulgation of regulations under that  
2 subsection.

3 (d) PRIVACY DASHBOARD FOR CONNECTED DEVICES  
4 FOR CHILDREN AND MINORS.—Subsections (a) and (b)  
5 of section 8 shall take effect on the date that is 180 days  
6 after the promulgation of regulations under such sub-  
7 section.

○